

LFC Requester:**Clint Elkins**

**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original ☐ **Amendment** ☐
Correction ☐ **Substitute** ☒

Date February 12, 2016

Bill No: HB 127

Sponsor: Adkins, David E

Agency Code: 305

Short School District Employee

Person Writing S. Carrasco-Trujillo

Title: Background Checks

Phone: 7-6067

Email Scarrasco-trujillo@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

The House Judiciary Substitute for House Bill 127 proposes to amend the State's Public School Code at several locations:

Section 1 proposes to amend NMSA 1978, Sec 22-10A-3 to replace the phrase "state board" with the word "department", and further to ensure that any licensed individual who is hired "shall not be hired without first having satisfactorily cleared a fingerprint-based background check..."

Section 2 Seeks to amend NMSA 1978, Sec 22-10A-5 to specifically reference "governing bodies of charter schools", within the existing list of entities subject to this act, and requiring "All employees of public schools, regional education cooperatives and charter schools, regardless of the employee's date of hire, shall have satisfactorily cleared a fingerprint-based background check before commencing or continuing employment at a public school, regional education cooperative or charter school."

Additionally, language is added regarding the requirement to report a known felony or misdemeanor conviction involving moral turpitude such that: "All employees shall report to a designated administrator of a school district or school, a regional education cooperative or a charter school any known conviction of a felony or misdemeanor involving moral turpitude of a licensed employee that results in any type of action against the licensed employee."

A definition for "background check" is also added to this section.

Section 3 seeks to amend NMSA 1978, Sec 22-10A-8, to include the following language: "meets other requirements for an alternative level one license, including satisfactory clearance of a fingerprint-based background check pursuant to the provisions of Section 22-10A-5 NMSA 1978; and..."

Section 4 seeks to amend NMSA 1978, Sec 22-10A-11.2 to require those individuals subject to this act to have "satisfactorily cleared a fingerprint-based background check pursuant to the provisions of 22-10A-5, NMSA 1978"

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

Notably, there is a potential language deficit contained in the bill which likely would be interpreted to not require the reporting of appropriate convictions of crimes involving moral turpitude for all employees.

Now, only licensed employees are required to self-report any felony or misdemeanor convictions involving moral turpitude. This change relieves any non-licensed employee from self-reporting. Additionally, this change decreases the number of people who are required to report, as prior versions of HB 127 required “all employees” to report.

On Page 5, Lines 1 and 2, the substitute for HB 127 adds the phrase “or other persons allowed unsupervised access to students”. This change increase the number of people now required to obtain a background check, and would presumably include volunteers and others who are not “employees”.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

None Noted.

OTHER SUBSTANTIVE ISSUES

See significant issues above.

ALTERNATIVES

None Noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

See Alternatives.